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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BROWN, PETER R	

ART UNIT	PAPER NUMBER
3636	

MAIL DATE	DELIVERY MODE
12/31/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/577,674	ROBERTSON, DALE	
	Examiner	Art Unit	
	Peter R. Brown	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,5-19 and 31-36* is/are pending in the application.

4a) Of the above claim(s) *9,18 and 19* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,5-19 and 31-36* is/are rejected.

7)☒ Claim(s) *34* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,5-8,10-12,16,31-33,35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blount in view of either LaPointe et al or Kemmerer et al.

Blount (figures 1-8) shows structure substantially as claimed, including a seat portion 36,38 pivotally connected to a base portion 34,44, a back portion which is reclinable relative to the seat and the base, and an actuator 50 substantially enclosed within the base portion for changing the configuration of the chair and backrest. The base includes upwardly extending side panels 44 and rear panel 42. Note that the seat frame includes downwardly extending side panels 22.

While the seat portion of Blount does not have a rear panel, such is conventional and well known in the art as taught by both LaPointe et al (col. 8, lines 31,32) and Kemmerer et al (figs. 2,3), and to have provided the seat portion of Blount with a rigid rear panel extending between the side panels, would have been an obvious modification to one with ordinary skill in the art, thereby providing reinforcement and rigidity to the structure.

It appears that the backrest is movable relative to the seat and the base in all configurations of the chair, as the backrest utilizes "pivot arms" 68 to pivotally mount to the inner sides of the seat frame via pins 62. Note that the "inclined

position" in claims 11 and 12 has not been structurally defined in term of its position relative to the other elements. Blount also discloses a movable front panel 80.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art, as applied to the claims above, and further in view of Hale.

While the sides of the seat frame of Blount appear to be outside of those on the base, the patent to Hale (fig. 1) shows an arrangement wherein the sides of the base are outside those of the seat, and in view of this suggestion, to have formed the chair structure of Blount in such a manner, would have been well within the level of skill in the art, as such would help prevent pinching or trapping of feet and toes under the side portions as the chair is lowered.

Claims 13-15,17,20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art, as applied to the claims above, and further in view of either Bergenwall or Hayashi et al.

Both Bergenwall (figs. 1-5) and Hayashi et al (figs. 2-5,8-10) teach the conventionality of providing a reclinable lift-chair with a plurality of actuators, wherein the individual elements may be separately controlled and adjusted, as desired. In view of this suggestion, to have modified the chair of Blount by providing additional actuators, for greater versatility and occupant comfort, would have been well within the level of skill in the art.

Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Note that claims 1 and 36 are broad enough to read on many conventional incliner chairs, an example of which is shown by the cited art to Lawson et al, wherein a fixed base including sides and a rear panel is provided, and a reclinable seat/back assembly is mounted/nested therein. Note that the side mounting brackets 54 form downwardly extending side panels, while most any rearwardly positioned link or bar may be construed as a rigid rear panel. Absent specific limitations directed thereto, the term "lift-recliner chair" does not impart any structure to the claim.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yates et al and Lawson et al show various features of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter R. Brown whose telephone number is 571-272-6853. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter R. Brown/
Primary Examiner, Art Unit 3636

prb